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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Final report on the situation of human rights in Afghanistan submitted by the Special Rapporteur, Mr. Felix Ermacora, in accordance with Commission on Human Rights resolution 1994/84

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Introduction

1. The Special Rapporteur was first appointed to examine the human rights situation in Afghanistan in 1984 by the Chairman of the Commission on Human Rights, who had been requested to do so by the Economic and Social Council in its resolution 1984/37 of 24 May 1984. Since then, his mandate has been renewed regularly by the Commission, in resolutions endorsed by the Economic and Social Council, in which the Special Rapporteur was requested to report to the Commission on Human Rights and to the General Assembly. So far, he has submitted 10 reports to the Commission (E/CN.4/1985/21, E/CN.4/1986/24, E/CN.4/1987/22, E/CN.4/1988/25, E/CN.4/1989/24, E/CN.4/1990/25, E/CN.4/1991/31 E/CN.4/1992/33, E/CN.4/1993/42 and E/CN.4/1994/53) and 10 to the General Assembly (A/40/843, A/41/778, A/42/667 and Corr.1, A/43/742, A/44/669, A/45/664, A/46/606, A/47/656, A/48/584 and A/49/650).

2. At its fiftieth session, the Commission on Human Rights decided, in its resolution 1994/84 of 9 March 1994, to extend the mandate of the Special Rapporteur for one year, an extension which was confirmed by the Economic and Social Council in its decision 1994/268 of 25 July 1994. The Special Rapporteur submitted an interim report (A/49/650) to the General Assembly at its forty-ninth session containing preliminary conclusions and recommendations. The General Assembly took note with appreciation of the report in its resolution 49/207, adopted without a vote on 23 December 1994, in which it decided to keep under consideration during its fiftieth session the situation of human rights in Afghanistan, in the light of additional elements provided by the Commission on Human Rights and the Economic and Social Council.

3. Subsequent to the renewal of his mandate by the Commission on Human Rights at its fiftieth session, and in accordance with past practice, the Special Rapporteur again visited the area in order to obtain the most broadly-based information possible. He visited Pakistan on 11, 12, 16 and 17 September 1994 and Afghanistan from 13 to 15 and on 18 September 1994. His findings are reflected in the interim report to the General Assembly (A/49/650). The Special Rapporteur once again visited Pakistan on 16 and 17 December 1994 and Afghanistan from 18 to 22 December 1994, with a view to gathering up-to-date information for the purposes of the present report. In addition, he also held consultations relating to his mandate in Europe and the United States of America in the course of 1994.

4. During his visit to Pakistan in December 1994, the Special Rapporteur met in Islamabad with the representatives of the United Nations Office for the Coordination of Humanitarian Assistance to Afghanistan (UNOCHA), of the United Nations Development Programme (UNDP), of the World Food Programme (WFP), of the United Nations International Drug Control Programme (UNDCP) and of the Office of the United Nations High Commissioner for Refugees (UNHCR). While in Islamabad, the Special Rapporteur also had talks with Mr. Rasul Amin, the Director of the Writers Union of Free Afghanistan (WUFA), with representatives of the Revolutionary Association of the Women of Afghanistan (RAWA) and with private individuals.

5. In the North West Frontier Province, the Special Rapporteur met in Peshawar with representatives of organizations concerned with human rights and

humanitarian affairs and with private individuals. He met with Mr. K. Majboor and Mr. Sarwar Hussaini, the Executive Director and Programme Manager of the Cooperation Centre for Afghanistan (CCA); with Mrs. Fathana Gailani and other members of the Afghan Women's Council; with Mr. Naim Majrooh and other representatives of the Afghan Information Centre; and with four representatives of the Afghan Professors' Association. While in Peshawar, the Special Rapporteur also visited a mother and child clinic and a girls' school located in the Hayatabad neighbourhood of that city which provide services to members of the Afghan refugee community.

6. In order to gain comprehensive insight into the situation of human rights in Afghanistan, during his mission to the area in December 1994 the Special Rapporteur decided to visit cities in Afghanistan which he had not visited or had been unable to visit in September 1994. It should be recalled that in September 1994, the Special Rapporteur visited Mazar-i Sharif in Balkh Province, Herat in Herat Province, Jalalabad and its environs in Nangarhar Province, and Kandahar City in Kandahar Province.

7. The Special Rapporteur went to four cities during his visit to Afghanistan in December 1994. In view of the change of government which had taken place in Kandahar Province in November 1994, the Special Rapporteur decided to visit once again Kandahar City where he met with the Governor and other representatives of the new authorities of Kandahar Province. He also met with the head of the judiciary, Maulavi Sayed Mohammad Paksami, and visited a prison.

8. The Special Rapporteur visited Bamyan Province where he met with representatives of the Islamic Shura (Council) on which all major Afghan political parties are represented. In addition, he met separately with representatives of the Harakat Islami, of the Wahadat and of the Jamiat Islami political parties.

9. The Special Rapporteur visited Badakhshan Province where he met in Faizabad with the Governor, the Deputy Governor, the mayor of Faizabad and other representatives of the authorities of Badakhshan Province. In addition, he visited the Faizabad prison.

10. The Special Rapporteur was able to visit Kabul, the capital of Afghanistan, for the first time since September 1993. He had been unable to visit the city prior to submitting a report to the Commission on Human Rights at its fiftieth session, owing to the heavy fighting which broke out in Kabul on 1 January 1994, or subsequently, owing to the prevailing security situation in September 1994. The Special Rapporteur was received, in accordance with the programme established in consultation with the Afghan authorities, by the President of Afghanistan, Mr. Burhanuddin Rabbani, and by the Minister of State for Foreign Affairs, Mr. Najibullah Lafraie. He also met with the Attorney-General and the Minister of the Interior and was able to visit a prison in the centre of the city. In addition, the Special Rapporteur visited the Kabul Museum, as well as the Microrayon and other areas of the city which have suffered extensive destruction. While in Kabul, the Special Rapporteur also met with Mr. Faizullah Jalal, Secretary-General of the National Commission for Human Rights of Afghanistan, Professor Amir Hassanyar, Chancellor of Kabul University, and numerous other members of the National

Commission for Human Rights of Afghanistan. He also had meetings with representatives of humanitarian and other organizations, as well as with private individuals.

11. The Special Rapporteur wishes once again to express his sincere gratitude to the governmental authorities of Afghanistan and Pakistan and the provincial authorities in Kandahar, Bamyan and Badakhshan for the valuable assistance and full cooperation which they extended to him. In this respect, he once again wishes to express his deep appreciation to the Personal Representative of the Secretary-General in Afghanistan and Pakistan, UNOCHA, the Office of the Secretary-General in Afghanistan and Pakistan (OSGAP) and UNDP for the most efficient logistical and other assistance which they extended to him in the field and without which these visits could not have been possible. The Special Rapporteur also wishes to thank UNHCR for its kind assistance both at headquarters and in the field.

12. For the purpose of drafting this eleventh report to the Commission on Human Rights on the situation of human rights in Afghanistan in the most impartial and objective manner possible, in addition to gathering information during the visits to Pakistan and Afghanistan, throughout the period under review the Special Rapporteur followed the events in the area reported in the national and international press and studied with keen interest and systematically evaluated the abundant written and oral information relevant to his mandate received from individuals and organizations. He has also consulted various reports prepared by United Nations bodies and specialized agencies, in particular those prepared by UNOCHA. In the exercise of his mandate, the Special Rapporteur has also taken into account the information provided by non-governmental and other organizations which deal with the human rights and humanitarian aspects of the Afghan issue, such as the International Committee of the Red Cross, Amnesty International, the International League for Human Rights and the Swedish Committee for Afghanistan.

13. Chapter I of the present report contains an outline of the political developments in Afghanistan since the submission of the previous report. Chapter II describes the situation of human rights in Afghanistan, including that of refugees and displaced persons, the problem of amnesty, the situation of the Kabul Museum, narcotics, the enjoyment of economic rights, educational problems and the issue of self-determination. Chapter III contains the conclusions and recommendations which the Special Rapporteur has drawn from the analysis of the available information.

I. OUTLINE OF THE POLITICAL DEVELOPMENTS IN AFGHANISTAN SINCE THE SUBMISSION OF THE PREVIOUS REPORT

14. In his interim report on the situation of human rights in Afghanistan (A/49/650), submitted to the General Assembly on 8 November 1994, the Special Rapporteur described in paragraphs 15 to 23 the political developments which had taken place in the country since heavy fighting broke out on 1 January 1994 between the forces of former Prime Minister Gulbuddin Hekmatyar and those allied with President Burhanuddin Rabbani. He also described the efforts of the United Nations special mission towards the restoration of

peace, normalcy and national rapprochement in Afghanistan headed by Mr. Mahmoud Mestiri of Tunisia which was established under General Assembly resolution 48/208.

15. The efforts of the United Nations special mission to Afghanistan are described in its progress report to the Secretary-General of 1 July 1994 (A/49/208-S/1994/766) and the subsequent report of the Secretary-General to the General Assembly at its forty-ninth session entitled "Strengthening of the coordination of humanitarian and disaster relief assistance of the United Nations, including special economic assistance: Emergency international assistance for peace, normalcy and reconstruction of war-stricken Afghanistan" (A/49/688).

16. From 29 September to 17 October 1994, Mr. Mestiri, the Head of the special mission to Afghanistan, convened at Quetta a meeting of independent Afghan personalities, including intellectuals, religious leaders, former ministers, commanders and others inside and outside Afghanistan, for the purpose of advising the United Nations on how to help bring peace to Afghanistan. This advisory group established three subcommittees: political, cease-fire and security.

17. Another important event took place at the beginning of November 1994 when a group, reportedly composed of students of religion (Taliban) took power in Kandahar Province which was previously governed by Mr. Gul Agha, the Governor, Maulavi Naqibullah Akhondzada and Commander Niaz Mohammad Lalai. At the end of November, the Taliban took control of Lashkargah, the capital of Helmand Province, an area which is considered as one of the principal producers of opium in the world. The group, which appears to be a national movement, subsequently advanced to Zabul Province, reportedly on its way to Herat. The representatives of the Taliban informed the Special Rapporteur that they intended to create a national army, collect weapons and fight corruption and anarchy. The new authorities of Kandahar stated that the takeover had taken place without giving rise to a large number of casualties. The Special Rapporteur met with the members of the new Taliban Shura (Council), as well as with the head of the judiciary, Maulavi Sayed Mohammad Paksami. At this juncture, reference must be made to the fact that the human rights officer of the Centre for Human Rights and the official United Nations interpreter who accompanied the Special Rapporteur during his mission to Afghanistan and Pakistan, both of whom are women and who have extensive and long-standing experience concerning his mandate, were not permitted by the Taliban to accompany the Special Rapporteur during his visit to Kandahar.

18. The new authorities of Kandahar Province informed the Special Rapporteur that they had taken power not only in Kandahar but also in four neighbouring provinces, Helmand, Zabul, Ghazni and Farah, and that Paktia and Paktika Provinces had also surrendered to their authority. Numerous field commanders are also said to have surrendered to this movement. The majority of Taliban reportedly belong to the Hezbe Islami (Khalis) political party. The objectives of the new authorities in Kandahar are the same as those of the Taliban: to collect weapons in provinces under their control and to attempt to guarantee security on the main roads, especially along the highway between Chaman (Baluchistan Province, Pakistan) and Kandahar.

19. It should be noted that the envisaged expiry of the President's term of office, which, according to the decisions taken at the Herat gathering convened in July 1994 (see A/49/650, paras. 19 and 21), should have taken place at the end of October 1994 or, alternatively, on 28 December 1994, did not occur. This is one of the principal factors of the violent power struggle in the country.

II. SITUATION OF HUMAN RIGHTS IN AFGHANISTAN

20. As the Special Rapporteur has mentioned on several occasions, the respect of human rights depends on the existence of an effective government which can guarantee the enjoyment of human rights and which is able to protect any individual in the country against the infringement of his or her human rights by whomever it may be. The respect of human rights enshrined in the international instruments to which Afghanistan is a party must not only be guaranteed by the Government and its agencies. Article 2, paragraph 3 of the International Covenant on Civil and Political Rights reads as follows:

> "3. Each State Party to the present Covenant undertakes:
>
> (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
>
> (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
>
> (c) To ensure that the competent authorities shall enforce such remedies when granted."

This means that the State must not only refrain from committing human rights violations but that it should also prevent the violation of human rights and provide remedies for alleged human rights violations. Therefore, the structure and organization of the State must correspond to the cited requirements.

21. Not only are the State authorities in Afghanistan unable to guarantee the uniform enjoyment of human rights throughout the country but, to the extent that State power exists, human rights are interpreted and applied in a different manner in different parts of the country. Although the Special Rapporteur was informed that the tenets of the Koran correspond to the human rights requirements enshrined in international human rights instruments, he has the impression that the relevant provisions of the Koran are interpreted differently in different regions owing to local customs.

22. Since submitting his report to the Commission on Human Rights at its previous session, the Special Rapporteur has continued to study the situation of basic human rights - the right to life, the right to personal freedom and

security, the rights of women, the right to education, as well as economic, social and cultural rights - in different provinces and regions of Afghanistan.

23. In his interim report to the General Assembly (A/49/650), the Special Rapporteur described the situation concerning basic human rights issues in different parts of the country. Prior to submitting his report to the General Assembly, he had visited Mazar-i-Sharif in Balkh Province, Herat in Herat Province, Jalalabad and its environs in Nangarhar Province and Kandahar City in Kandahar Province. During his visit to Afghanistan prior to the submission of the present report, in addition to the situation of human rights in Kabul, the Special Rapporteur studied the situation of human rights in the Bamyan and Badakhshan Provinces and once again visited Kandahar Province.

24. The situation of human rights is different in each of the above-mentioned provinces. The Special Rapporteur was able to visit prisons and to discuss with the authorities the situation regarding specific human rights, as well as the judicial system. In some provinces, the seeking of judicial remedies could go all the way to Kabul while in others the provincial courts would take the final decision. Among the provinces which the Special Rapporteur visited, Kabul constitutes a special case.

25. The situation of human rights in Bamyan Province appears to be satisfactory. The Special Rapporteur was informed that peace and security prevailed throughout the province. The government in Bamyan Province is decentralized inasmuch as each political party in the province has its own shura (council) which delegates persons to the Islamic Shura (Council) on which all the political parties are represented and which governs the province. The party shuras have similar competences as those of the Islamic Shura. The president of the Islamic Shura is selected every three months from one of the parties, on a rotating basis. The Special Rapporteur was informed that a mass grave was discovered in the vicinity of the Bamyan airfield in 1989.

26. The Special Rapporteur was informed that the judicial system in Bamyan Province had three instances, the highest of which is a judicial commission, which in itself is not a court. It is composed of religious scholars and judges from different parties whose number depends on the complexity of a given case. The judicial system in the province is decentralized to the extent that political parties also appear to exercise judicial competences before referring a case to the judicial commission. The Special Rapporteur was informed that although a case could be appealed in Kabul, this was not possible at present owing to the prevailing situation.

27. A number of important conditions required for the enjoyment of social and economic rights were lacking in Bamyan province. Water was cited as one of the problems in a province which is mainly agricultural. The Special Rapporteur was informed that the educational system had almost come to a standstill. A large number of schools were closed and the reconstruction of most school buildings was required. In addition, there were no media such as newspapers, radio and television. The Special Rapporteur's attention was drawn in particular to the situation regarding health. He was informed that there were no medical specialists in the province, which was in serious need

of assistance in the medical field. The problem of health is further compounded during the winter months when the province is virtually cut off from the rest of the country by heavy snowfall.

28. During his visit to Bamyan, the Special Rapporteur met with the representatives of the shuras (councils) of three political parties. All of his interlocutors emphasized that the peace and security prevailing in the province stemmed from the fact that the people of Bamyan had always been united, now as well as during the struggle against the occupation forces and the former regime, regardless of their ethnic origin or the party to which they belonged.

29. The situation of human rights in Badakhshan Province also appears to be satisfactory. The representatives of the provincial government, the majority of whom belong to the Jamiat Islami political party, informed the Special Rapporteur that law and order prevailed throughout the province and that human rights were guaranteed. He was informed that the province had a fully functioning administrative structure which employed both men and women and which operated within the larger framework of the Islamic Government of Afghanistan. Freedom of opinion and expression was guaranteed by a free press, and a local television and radio station, as well as newspapers, existed. The Special Rapporteur was informed that there were no political prisoners and that amnesty had been applied. The judicial system has three instances: a primary court at the district level, the court of appeal and the High Court in Kabul.

30. The Special Rapporteur was informed that the economic and social situation in Badakhshan was affected by insufficient electricity, the absence of an appropriate road infrastructure and insufficient employment opportunities. Although the United Nations had carried out de-mining operations, a certain number of mines are said to remain on agricultural land. Some 2,000 families were displaced within the province as a result of flooding. The representatives of the authorities stated that the health situation was characterized by a lack of clean drinking water and insufficient medical supplies. Cases of malnutrition were also reported.

31. While in Faizabad, the Special Rapporteur was informed that around 2.30 a.m. on 20 December 1994 unidentified jet planes bombed Robabi village in the Baharak district near Faizabad where Tajik refugees had settled. The bombing raid reportedly gave rise to a number of casualties.

32. Kabul has now become the most destroyed city in Afghanistan. The Special Rapporteur saw once again the extent of the destruction of the Afghan capital, which is much greater than when he last visited the city in September 1993. It goes without saying that the right to life is not guaranteed, especially since 1 January 1994 when fighting broke out in Kabul, accompanied by intensive rocketing and shelling. It is estimated that some 8,000 persons have been killed and more than 80,000 wounded since that date. The situation regarding personal liberty and security has continued to drive very large numbers of persons away from the city. The adverse effects of the fighting were compounded by the use of food as a strategic weapon, resulting in the denial of access for several months by the forces allied with former Prime Minister Hekmatyar to emergency humanitarian assistance provided by the

international community for the survival of the most vulnerable population groups. It is estimated that the fate of some 20 per cent of the inhabitants is linked to the fate of the city since they do not have the means to leave it and seek shelter elsewhere. Kabul has been described as the biggest humanitarian emergency in the country. The Special Rapporteur was informed about a survey of 1,200 children in the city which showed that 2 per cent suffered from severe malnutrition while 30 to 40 per cent were moderately malnourished. Humanitarian problems in Afghanistan today were said to be more severe than was the case one year ago.

33. The Special Rapporteur would also like to mention the problem of torture and the situation of women. A news release issued by Amnesty International on 15 December 1994 contains a particularly dramatic report about the situation of human rights in Kabul, stating, inter alia, that:

> "Members of armed political groups reportedly continue to enter civilian houses in Kabul and other parts of the country killing male members of the family who resist their entry. They confiscate property and then subject women and children to prolonged beatings and rape. ...
>
> "Widespread beating of unarmed civilians suspected of belonging to rival ethnic groups reportedly continues. All armed groups reportedly have private detention centres where they subject prisoners to prolonged detention and torture."

It should be noted, however, that in the course of 1994, the International Committee of the Red Cross (ICRC) gained increased access to prisons and detention centres run by different parties. The Special Rapporteur was informed that numerous prisons existed throughout Kabul in privately owned homes. On the other hand, during his visit to Kabul, the Special Rapporteur was able to observe that the majority of the checkpoints which used to exist in the centre of the city, particularly in the area of Shahrinau, have disappeared. The presence of uniformed policemen gives the impression that law and order now prevails in certain parts of the city.

34. On 21 December 1994, the Embassy of Afghanistan in Islamabad issued a press release in which it contested the Special Rapporteur's allegations concerning torture and rape and indicated that efforts were being made by the Afghan authorities to restore law and order. In his reports, the Special Rapporteur has not accused the Government of committing such acts but has stated that it was unable to prevent them. Nevertheless, the Special Rapporteur has received information relating to incidents which took place in a notorious police directorate in Kabul, as well as information concerning arbitrary detention in the Panjshir Valley, to which he has not had access.

35. The Special Rapporteur was informed about the situation of women in Kabul since 1992 by women who have become refugees or internally displaced persons after that date. He was informed about an incident which occurred in the Garga neighbourhood in the north-western part of Kabul where more than 80 women who had been subjected to torture and rape were found in a room underground. The Special Rapporteur was shown the photograph of a mother of four who was raped and whose body was found on 22 May 1994 on the outskirts of Kabul. In addition, he was informed that women received threatening letters

urging them not to leave their homes and to wear the veil. The Special Rapporteur was informed that letters with the same content were also sent to Afghan women who had taken refuge in Pakistan. He was informed that the situation of unmarried women who had to work for a living was particularly precarious under these circumstances.

36. In paragraph 17 above, the Special Rapporteur mentioned the attitude towards women of the members of the Taliban movement which took power in Kandahar and a number of other provinces in November 1994. On the eve of his visit to Kandahar, the new authorities proclaimed that women were barred from all employment. In a concomitant development, the authorities of Nangarhar Province announced that women could only remain employed in the educational sector and as nurses. On the other hand, the Special Rapporteur was told in Bamyan Province that there were only two types of occupation that women could not have in that province, that of mujtahed (a figure to be followed in Islam) and judge; all other professions were open to them.

A. The situation of refugees and displaced persons

37. At present, there are some 1.2 million Afghan refugees in Pakistan. Approximately 1.7 million Afghan refugees continue to reside in the Islamic Republic of Iran, some 450,000 of them in Khorasan Province. The policy of the host countries towards these refugees is undergoing change. A very large percentage of Afghans who have returned from Iran were reportedly forced directly to do so or decided to return in coercive circumstances. The Iranian authorities have made statements indicating that in March 1995 they will step up measures to encourage Afghan refugees to return, similar to those undertaken under the regularization campaign in 1994. The policy of Pakistan concerning Afghan refugees has also altered. In addition to stricter visa requirements and formalities at the border, a change in attitude towards Afghan refugees has been reported, in particular on the part of the Pakistani police. Afghan refugees are said to have come under considerable pressure, especially since October 1994. The control of their identity papers has reportedly become more stringent and numerous persons are said to have been asked for money, even if they were in possession of the required documents. The Special Rapporteur also heard allegations concerning bribery and the arbitrary incarceration of Afghan refugees who were unable to pay. Some have reportedly remained in jail until their families have managed to collect the money required to free them. The Special Rapporteur was informed in particular about an incident which took place in the Bord neighbourhood of Peshawar where a large number of Afghans had rented land and set up shops. The shops were reportedly cleared into the nearby river by bulldozers. A number of customers are said to have been swept into the river together with the shopkeepers. The Special Rapporteur did not have the opportunity to conduct an in-depth investigation of the incident.

38. The Special Rapporteur's attention was drawn in particular to the precarious situation of Afghan intellectuals who are refugees. They are often compelled to make a living in professions which have nothing to do with their level of education and a number of them have reportedly been harassed by the police. In addition, the funding of schools and clinics which provide services to the Afghan refugee community in Pakistan is reported to have declined sharply and a number of them have had to be closed.

39. It is estimated that approximately 500,000 persons from Kabul are currently displaced throughout the country. Some 450,000 live in the area of Jalalabad, in Nangarhar Province, while 50,000 have gone to other parts of the country. In addition, it is estimated that some 10,000 families are displaced in private homes within the city. The flow of displaced persons from Kabul has resulted in the creation of a fifth camp in Jalalabad, the New Hadda Camp, at the beginning of October 1994. The Special Rapporteur was informed that an average of 70 families or approximately 500 persons arrived per day, which amounts to some 15,000 in one month. They are receiving assistance from the Afghan authorities, as well as from United Nations agencies and non-governmental organizations.

B. The problem of amnesty

40. In the press release it issued on 21 December 1994, the Afghan Government reiterated what the Special Rapporteur has never denied, namely that in the very first days after the establishment of the Islamic Government, a general amnesty was announced for the officials of the previous regime and that the Islamic Government was still committed to it. However, the amnesty was not extended to the former President of the country, Mr. Najibullah. Although the Secretary-General of the United Nations wrote recently to President Rabbani about this question, the amnesty decree has still not been applied to Mr. Najibullah. The Special Rapporteur raised the problem of amnesty concerning former President Najibullah during his recent meeting with President Rabbani. Mr. Rabbani indicated that a large national assembly, the Shura-Ahl-e-Hal Wa Aqd (council for the solving of problems and making of agreements), had pronounced itself with regard to Mr. Najibullah. He stated that only another shura (council) of this type could take a decision on the matter.

C. The situation of the Kabul Museum

41. The Special Rapporteur already referred to the situation of the Kabul Museum in his report to the General Assembly at its forty-ninth session (A/49/650). In an article entitled "The plight of Afghanistan's cultural heritage (The case of the museum in Kabul)" which appeared in the September-October 1994 issue of The WUFA, a publication of the Writers Union of Free Afghanistan, Mrs. Nancy Hatch Dupree described Afghanistan's national museum as one of the world's most opulent cultural depositories. Mrs. Dupree gives an account of the museum's history and describes the destruction it has undergone since May 1993 to April 1994 when she last visited it. The Special Rapporteur was able to visit the museum on 22 December 1994 in the company of one of its staff members. The Special Rapporteur, who had previously visited the museum in 1989, was shocked to see the extent of the destruction which it had undergone and to hear about the acts of vandalism and looting concerning its artifacts.

D. Narcotics

42. Afghanistan has become one of the world's largest producers of narcotics, which are reported to be grown on prime agricultural land. Owing to the general security situation prevailing in the country, little control can be exercised over the production of opium, said to be on the rise, which is

subsequently transported beyond the borders of Afghanistan. The United Nations International Drug Control Programme (UNDCP) and non-governmental organizations are carrying out a number of activities in this field.

E. Economic rights

43. The reports prepared by UNOCHA and UNDP provide good insight into the real economic situation of Afghanistan. In paragraphs 27 and 30 above, the Special Rapporteur described the situation regarding economic and social rights in Bamyan and Badakhshan Provinces, respectively. In paragraph 32, he described the situation in Kabul. Besides the hardships caused by the fighting in the city and the blockade which was imposed for several months, additional problems arose from the further devaluation of the Afghan currency, reported to be printed in India in extremely large quantities, and the resulting rise in the rate of inflation.

F. Educational problems

44. The situation concerning education differs from province to province. The Special Rapporteur indicated in paragraph 27 above that the educational system in Bamyan Province had almost come to a standstill and that most school buildings needed reconstruction. By contrast, the authorities of Badakhshan informed the Special Rapporteur that since the Islamic Government took power, the province has had a fully functioning educational system with some 54,000 students and some 3,000 teachers. The right to education has been severely curtailed in Kabul, especially since intensive fighting broke out in the city on 1 January 1994. More than a hundred university professors have left the city and have become refugees. The Special Rapporteur was informed that some faculties of Kabul University had been able partly to resume their activities in Jalalabad. During his visit to Kabul in December 1994, the Special Rapporteur was able to observe persons displaced within the city as a result of rocketing and shelling who had taken refuge in a school. Even when educational facilities are not occupied, the security situation makes it difficult to hold classes and exams. One professor told the Special Rapporteur that several of his students had been killed when a rocket hit the classroom where he was giving an examination.

G. Self-determination

45. The people of Afghanistan are denied the right to full self-determination by the conflict which is being waged in the country between the armed groups. Self-determination presupposes the effective and equal enjoyment of human rights throughout the country and the absence of direct or indirect foreign interference in the affairs of Afghanistan. In addition to the political efforts of the United Nations special mission to Afghanistan to implement a comprehensive peace process in Afghanistan, it would appear that each political group involved has its own idea about how to arrive at reconciliation. The cessation of armed hostilities and a ban on the use of weapons are the indispensable first step on the way to reconciliation. If there is no cease-fire, the country will remain in a vicious circle. The destruction of Kabul is the best example of the consequences of the continuous power struggle. A nation cannot achieve self-determination through armed

struggle. Hopeful signs that Afghan politicians had understood this aspect of the problem of self-determination came from their recognition of the role which the United Nations can play in this respect. Unfortunately, no progress has been made with regard to the creation of a national army and the drafting of an Islamic constitution. Nevertheless, the Special Rapporteur was informed that a high-level commission had begun work on the Constitution in connection with the Herat gathering, convened in July 1994. This work was interrupted with a view to avoiding a possible duplication of work in this regard within the efforts made by the United Nations special mission to Afghanistan.

III. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

46. The human rights situation in Afghanistan continues to be conditioned by the absence of an effective central government. The situation varies from region to region and is principally dependent on the type of government which exists in the different areas, that is to say, whether it is a coalition government, a one-party government or an oligarchy.

47. The situation of human rights in Afghanistan depends on the intensity of the power struggle between the rival groups which is still taking place in some provinces and is conducted without due respect for international law and humanitarian law.

48. Kabul is the most prominent example of the widespread violations of human rights which are still taking place. There is no respect for the right to life, the right to own property or the dignity of women and there is also an absence of enjoyment of economic and social rights. The reasons for this lack of respect for human rights reside in the instability of law and order. Checkpoints have disappeared in the parts of Kabul under the authority of the Government headed by President Rabbani, where a certain amount of stability can be observed. Nevertheless, there have been reports of acts of torture committed by uncontrollable elements.

49. Hundreds of secret places of detention continue to be in operation throughout the country. This is particularly the case in Kabul and in other areas under the control of the government. In the course of 1994, ICRC gained increased access to prisons and detention centres run by different parties. The Special Rapporteur has not had access to this type of prison

50. The judicial system in the country is not unified. It is doubtful whether international standards concerning detention are respected. The conditions in prisons which the Special Rapporteur visited did not correspond to the Standard Minimum Rules for the Treatment of Prisoners.

51. Owing to the situation of war in the country, the enjoyment of economic, social and cultural rights can only be maintained at a minimum level, in part thanks to the support of the international community. The pledges of Member States for humanitarian assistance can satisfy the needs only to a certain extent. The educational system is virtually non-existent in a number of provinces. The same is true of the health system, which is characterized by a significant lack of medicines and medical equipment.

52. The basic rights of women are only partly respected.

53. In addition to more than 8,000 persons who are estimated to have been killed in Kabul in the course of 1994, the number of displaced persons from Kabul rose to 500,000. The assistance provided by the international community to this group of persons is not sufficient.

54. There are still some 1.2 million Afghan refugees in Pakistan and 1.7 million in the Islamic Republic of Iran. The host countries have begun to change their policy regarding Afghan refugees. Pakistan and Iran used to have a very humane attitude towards refugees. The current change of attitudes of these countries with regard to Afghan refugees is related to their economic difficulties as well as to a decrease in international assistance. It would appear that international solidarity is taxed by the large number of conflicts which are taking place in the world.

55. The conflict between the armed groups has deprived the people of Afghanistan of the full exercise of their right to self-determination, which presupposes the effective enjoyment of human rights throughout the country. The United Nations special mission to Afghanistan is making efforts to implement a comprehensive peace process in Afghanistan which would require the cessation of armed hostilities and a ban on the use of weapons. No progress has been made so far with regard to the creation of a national army and the drafting of an Islamic constitution.

B. Recommendations

56. In order for the reconciliation process to succeed, human rights must be respected scrupulously.

57. States Parties to the International Covenant on Civil and Political Rights should supervise the respect of human rights in time of public emergency (art. 4 of the International Covenant on Civil and Political Rights).

58. Prisons run by parties and various armed groups whose existence is contrary to the proper administration of justice should be visited by ICRC and the competent representatives of the United Nations.

59. As long as there is no national army, the international community should undertake efforts to collect all illegally held weapons.

60. An Islamic constitution should be drafted. The assistance of international experts may be requested in the elaboration of such a draft.

61. A constitutional council should be established in order to guarantee the respect of human rights.

62. After a cease-fire is achieved in Kabul, the international community should be requested to assist in planning the reconstruction of the parts of the city which have been destroyed.

63. The United Nations Educational, Scientific and Cultural Organization (UNESCO) should be requested to contribute to the reconstruction of the Kabul Museum.

64. UNESCO should contribute to the establishment or re-establishment of the education system in the provinces, at least at the elementary level.

65. The World Health Organization should be requested to provide assistance in the field of health to Bamyan and Badakhshan Provinces.

66. The competent international agencies should be requested to assist with the problem of malnutrition in children.

67. Countries where Afghan refugees still reside should treat them in conformity with the 1988 Geneva Agreements on the Settlement of the Situation relating to Afghanistan.

68. The Human Rights Committee should request the Government of Afghanistan to submit its report under article 40 of the International Covenant on Civil and Political Rights as soon as possible. The Special Rapporteur should be invited to participate as an expert during the consideration of the report.

69. The amnesty decree which was proclaimed by the Islamic Government of Afghanistan in 1992 should be respected and applied without any discrimination whatsoever.

70. The present report should be translated into the Dari and Pashtu languages.